Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the	)	
Pay Telephone Reclassification	)	CC Docket No. 96-128
and Compensation Provisions of the	)	
Telecommunications Act of 1996	)	

COMMENTS

of the

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

July 1, 1996

SUMMARY

The National Telephone Cooperative Association ("NTCA") submits that the Commission's proposal to prescribe a national surrogate compensation rate for all dial-around calls originated by payphones is appropriate to ensure fair compensation to payphone providers. The Act requires the Commission to ensure that payphone providers are fairly compensated. The industry already relies on what is, in effect, a nationwide surrogate rate, and continued use of this type of nationwide price surrogate would provide for a non-disruptive method by which to ensure the appropriate compensation amount.

Concerning the Commission's proposal to mandate that all incumbent LECs provide local coin transmission services under a public, tariffed offering, NTCA submits that LECs not currently equipped to offer central office coin services should not be required to upgrade their switch facilities in order to provide these services. Further, if the proposed "direct-billing" arrangement using ANI tracking is adopted, the Commission must ensure that the smaller LECs will not be required to bear any undue burdens in resolving disputes over compensation.

With regard to the Commission's proposals concerning the provision public interest payphones, NTCA recommends that the provision of public policy payphones be administered and funded through the states.

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COMMENTS OF THE NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

The National Telephone Cooperative Association ("NTCA") submits these comments in response to the *Notice of Proposed Rulemaking* ("*NPRM*") released on June 6, 1996, inviting comments on the above-captioned proceeding. This proceeding has the purpose of implementing the provisions of the Telecommunications Act of 1996 ("Act")[1] which direct the Commission to reform rules relating to pay telephone reclassification and compensation. NTCA is a national association of approximately 500 local exchange carriers ("LECs"). These LECs provide telecommunications services to end users and interexchange carriers throughout rural America.

The Commission offers several proposals regarding pay telephone compensation issues. The *NPRM* discusses the concept of "fair" compensation and solicits comments on its proposal to prescribe a national standard for determining fair compensation for payphone service

[1] Pub. L. No. 104-104.

providers.[2] In addition, the *NPRM* also examines administrative issues associated with per call compensation.[3] Further, the Commission asks for comment on issues surrounding the reclassification of incumbent LEC payphones as customer premises equipment ("CPE").[4]

I. A NATIONWIDE RATE FOR ALL DIAL-AROUND CALLS ORIGINATED BY PAYPHONES IS APPROPRIATE TO ENSURE FAIR COMPENSATION.

Section 276 of the Act mandates that all payphone providers be "fairly compensated for each and every completed intrastate and interstate call ..."[5] The Commission tentatively concludes that it should prescribe standards for determining fair compensation for all access code calls, subscriber 800 and other toll-free number calls and debit card calls.[6] NTCA concurs that a nationwide rate for all dial-around calls originated by payphones is a reasonable means by which to ensure that payphone providers receive fair compensation. The industry already relies on what is, in effect, a nationwide surrogate rate: $6 dollars per phone on the average 15 access code calls originated by a competitive payphone per month, or $0.40 per call. Continued use of this type of nationwide price surrogate would not be disruptive and would ensure an appropriate per call

[2] *NPRM* at paras.16-21.

[3] *NPRM* at paras. 32-34.

[4] *NPRM* at paras. 42-53.

[5] 47 U.S.C. § 276(b)(1)(A).

[6] *NPRM* at para. 16.

compensation amount, as required by the Act.[7] This will also limit the administrative burden placed on smaller companies.

While the Act requires the Commission to ensure that payphone providers are fairly compensated, this mandate should not produce any significant administrative burdens for LEC payphone providers.[8]

In its effort to implement the Section 276 mandate which further directs the Commission to "discontinue the intrastate and interstate carrier access charge payphone service elements and payments,"[9] the Commission tentatively concludes that incumbent LEC payphones should be treated as unregulated, detariffed CPE.[10] As properly noted in the *NPRM*, LECs have not previously been required to pay the flat-rate subscriber line charge (SLC) for the loop used by their payphones, as this cost has been recovered entirely through the carrier common line (CCL) charge. In conjunction with its proposal to reclassify LEC payphones as CPE, the Commission proposes to apply the SLC to the subscriber lines that terminate at the nonregulated LEC

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[7] The use of a price surrogate here is not necessarily antithetical to the rejection of surrogates elsewhere. Here NTCA is speaking with specific regard to the provision of payphone service, for which LECs face relatively small and homogeneous costs.

[8] The Commission also asks for comment on appropriate rates for local coin calls (*NPRM* at paras. 19-22). As noted in the *NPRM*, the states have long held the primary role in regulating local coin rates. NTCA recommends that the Commission continue to defer to the states in establishing local coin rates, as there is no evidence that the use of a nationwide *local* rate is necessary to ensure fair compensation.

[9] 47 U.S.C. § 276(b)(1)(B).

[10] The Commission also seeks comment on which specific incumbent LEC payphone equipment assets should be transferred from regulated accounts to an unregulated state. NTCA asks that the Commission proceed with caution in transferring payphone assets to unregulated accounts. It is critical that no universal service investment be transferred to an unregulated status.

payphones.[11] NTCA concurs with the Commission's tentative conclusion to require the LECs as well as the private payphone owners (PPOs) to apply the SLC to the nonregulated payphones. The application of the SLC to both PPO and LEC payphones ensures that discrimination among payphone providers is eliminated.

The Commission also seeks comment on whether under certain circumstances, LECs should charge or impute to their own payphone operations an additional monthly charge representing the difference between the SLC cap of $6.00 per month and the full interstate cost of these subscriber lines.[12] NTCA does not believe this is necessary, nor is it prudent. The lines in question should be treated in the same manner as any other loops, and an additional charge or imputation is not warranted. The carrier common line cost component of loops serving payphones is no different than loops serving other subscribers, particularly since now payphone owners will all be paying the SLC.

II. THE COMMISSION SHOULD NOT MANDATE THAT ALL LECs PROVIDE LOCAL COIN TRANSMISSION SERVICES TO PAYPHONE SERVICE PROVIDERS UNDER A TARIFFED OFFERING.

The Commission further proposes to require incumbent LECs to provide payphone service providers all functionalities used in a LEC's delivery of payphone services, including central office coin services such as coin recognition and answer detection. The proposal suggests that individual central office coin transmission services should be provided under a public, tariffed offering, whether or not the LECs themselves provide payphone service.[13]

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[11] *NPRM* at para. 53.

[12] *NPRM* at para. 54.

[13] *NPRM* at para. 45.

NTCA is concerned that the Commission has overlooked the fact that some small LECs are not equipped to provide all local coin transmission services. These LECs operate under a "post-pay" procedure, able to recognize that the end user has deposited coins only after the call has been terminated. Central offices which utilize this type of procedure may not be able to provide the "pre-pay" services commonly used by other payphone providers.[14]

The LECs that are not currently equipped to offer these services would be forced to make significant investments in switch upgrades if required to offer central office coin services under a tariffed offering. NTCA urges the Commission not to mandate the modification of switches simply so these small LECs can provide central office coin services.

III. SMALL LECs SHOULD NOT BE REQUIRED TO BEAR ANY UNDUE BURDEN IN THE RESOLUTION OF DISPUTED COMPENSATION.

The per call compensation plan proposed by the Commission would continue the current direct-billing arrangement, but also would require IXCs and the intrastate interexchange operations of LECs to perform call tracking, using automatic number identification ("ANI"). The IXCs and the intrastate interexchange operations of LECs would be required to send periodic statements to payphone service providers indicating the number of toll-free and access code calls that each carrier has received from the payphones.[15] This type of arrangement would appear to give rise to a great deal of dispute. Therefore the Commission has proposed to adopt minimal regulatory guidelines for the industry on the resolution of disputed compensation.[16] NTCA is

[14] As noted in the *NPRM*, private payphone owners employ instrument-implemented "smart-payphones" (*NPRM* at para. 43).

[15] *NPRM* at para. 33.

[16] *NPRM* at para. 34.

concerned about the potential burden that a complex dispute resolution process could cause and urges the Commission to ensure that the smaller LECs will not be required to bear any undue burdens in resolving disputes over the proper level of compensation between long distance carriers and payphone operators.

IV. PUBLIC INTEREST PAYPHONES MAY BE ADMINISTERED AND FUNDED THROUGH THE STATES.

The *NPRM* states that the reclassification of incumbent LEC payphones to CPE will effectuate the Act's mandate to eliminate "all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues."[17] NTCA is aware that several states mandate the provision of payphones in some public places that may not otherwise be provided with payphone service. For example, both New York and Minnesota require LECs to provide at least one payphone, prominently located and properly maintained and equipped, for each wire center.[18] LECs operate under similar rules in the states of Montana and Florida.[19] As a result of rules previously established in such states, many LECs may be required to place payphones in areas they otherwise would not. Due to the fact that rural companies may have wire centers where there is an extremely low population density and virtually no transient payphone users, the cost to provide the mandated payphone exceeds its revenue. Without the cost recovery previously

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[17] 47 U.S.C. § 276(b)(1)(B).

[18] *See* New York State Rules and Regulations, *Service Standards Applicable to Telephone Corporations*, Section 603.2(b), New York Department of Public Service Case 90-C-0695; *See also*, Chapter 7810 of the Minnesota Telephone Utility Rules, Section 5700, Public Telephone Service.

[19] *See* Section 38.5.3337 of the Administrative Rules of Montana; *See also*, Commission Rule 25-4.076, Florida Public Service Commission.

available, the required provision of payphones in these competitively undesirable areas appears to produce the need for an alternative cost recovery mechanism.

In its *NPRM*, the Commission asks for comment on whether it would be in the public interest "to maintain payphones provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone."[20] The *NPRM* also makes reference to the extensive statewide program for the designation and funding of public interest payphones already established in the state of California, and asks whether the provision of public interest payphones should remain primarily a matter of state concern.[21] NTCA recommends that where payphone provision is mandated by the states, either to satisfy some minimum per exchange provision or a further public policy objective, cost recovery for the provision of such payphones should be administered and funded by the states. Should the Commission decide, however, to adopt a national program, it should establish a fund segregated from other universal service support mechanisms. Further, such a fund could be efficiently administered by the National Carrier Exchange Association (NECA), as NECA already possesses extensive experience as the administrator of the current universal service fund.

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[20] *NPRM* at para. 77.

[21] *NPRM* at paras. 79, 81.

V. CONCLUSION

In conclusion, NTCA supports the Commission's tentative conclusion to prescribe a national surrogate compensation rate for calls originated on payphones for reasons presented in the discussion above. However, the Commission should not require LECs that are not currently equipped to offer central office coin services to upgrade their switch facilities in order to provide these services under a tariffed offering. NTCA also asks the Commission to ensure that the smaller LECs will not be required to bear any undue burdens in resolving disputes over compensation. In response to the Commission's proposals concerning public interest payphones, NTCA recommends that the provision of public policy payphones be administered and funded through the states. However, should the Commission adopt a national support program, the established fund must be separated from other universal service support mechanisms, and could be appropriately administered by NECA.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

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July 1, 1996

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Comments of the National Telephone Cooperative Association in CC Docket No. 96-128 was served on this 1st day of July 1996, by first-class, U.S. Mail, postage prepaid, to the following persons on the attached service list:

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